

## § 8.33

### NATIONAL SERVICE LIFE INSURANCE POLICY

#### § 8.33 Policy provisions.

Contracts of insurance authorized to be made in accordance with the terms and conditions set forth in the forms and policy plans are subject in all respects to the applicable provisions of title 38 U.S.C., amendments and supplements thereto, and applicable Department of Veterans Affairs regulations promulgated pursuant thereto, all of which together with the insured's application, required evidence of health, including physical examination, if required, and tender of premium shall constitute the contract.

[61 FR 29293, June 10, 1996]

### APPEALS

#### § 8.34 Appeal to Board of Veterans Appeals.

(a) The provisions of Part 19 of this chapter will be followed in connection with appeals to the Board of Veterans Appeals involving questions pertaining to the denial of applications for insurance, total disability income provision, or reinstatement; disallowance of claims for insurance benefits; and decisions holding fraud or imposing forfeiture. Notice to the applicant or claimant and his representative, if any, of the right to appeal will be sent by the insurance activity having jurisdiction over the case, at time action of denial, disallowance, or forfeiture is taken.

(b) When an appeal to the Board of Veterans Appeals is initiated by a notice of disagreement, any unpaid premiums, normally due under the policy from effective date of issue or reinstatement (as appropriate), will become an interest-bearing lien, enforceable as a legal debt due the United States and subject to all available collection procedures in the event of favorable action by the Board.

(c) Where the adverse action from which appeal is taken involves a change in or addition to insurance currently in force, premium payments must be continued on the existing contract.

[33 FR 3176, Feb. 20, 1968. Redesignated at 61 FR 29290, June 10, 1996]

## 38 CFR Ch. I (7–1–99 Edition)

#### § 8.35 Total disability for twenty years or more.

Where the Disability Insurance Claims activity has made a finding of total disability for insurance purposes and it is found that such disability remained continuously in effect for 20 or more years, the finding will not be discontinued thereafter, except upon a showing that such a determination was based on fraud. The 20-year period will be computed from the date the continuous total disability commenced, as determined by the Disability Insurance Claims activity.

[27 FR 11893, Dec. 1, 1962. Redesignated at 61 FR 29290, June 10, 1996]

#### § 8.36 Guardian: definition and authority.

(a) *Definition.* For the purpose of this section, the term *guardian* includes any fiduciary certified by the appropriate Veterans Services Officer under § 13.55 of this title to receive benefits in a fiduciary capacity for an insured or beneficiary.

(b) *Authority.* For the purpose of this part, a guardian of an insured or beneficiary shall have authority to: Apply for insurance; apply for conversion of a policy or change of plan; reinstate a policy; withdraw dividends held on deposit or credit; select or change a dividend option; obtain a policy loan; cash surrender a policy; authorize a deduction from benefits or allotment from military retired pay to pay premiums; apply for and receive payment of the proceeds on a matured policy; select or change the premium payment option; apply for waiver of premiums and total disability income benefits; select or change settlement options for beneficiaries; assign a beneficiary's interest as provided under section 1918 of title 38 U.S.C.

(Authority: 38 U.S.C. 1906)

[56 FR 9627, Mar. 7, 1991. Redesignated at 61 FR 29290, June 10, 1996]

### PART 8a—VETERANS MORTGAGE LIFE INSURANCE

Sec.

8a.1 Definitions.

8a.2 Maximum amount of insurance.

8a.3 Effective date.

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### 8a.4 Coverage.

AUTHORITY: 38 U.S.C. 501, and 2101 through 2106, unless otherwise noted.

SOURCE: 37 FR 282, Jan. 8, 1972, unless otherwise noted.

### § 8a.1 Definitions.

(a) The term *housing unit* means a family dwelling or unit, together with the necessary land therefor, that has been or will be purchased, constructed, or remodeled with a grant to meet the needs of an eligible veteran and of his or her family, and is or will be owned and occupied by the eligible veteran as his or her home, or a family dwelling or unit, including the necessary land therefor, acquired by an eligible veteran to be used as his or her residence after selling or otherwise disposing of title to the housing unit for which his or her grant was made.

(b) The term *Veterans Mortgage Life Insurance (VMLI)* means the mortgage protection life insurance authorized for veterans under 38 U.S.C. 2106.

(c) The term *initial amount of insurance* means the amount of insurance corresponding in amount to the unpaid principal of a mortgage loan outstanding on a housing unit owned or to be acquired by an eligible veteran on August 11, 1971, or on the date of approval of his or her grant made under chapter 21 of title 38 U.S.C., whichever is the later date.

(d) The term *mortgage loan* means any loan, lien, or other indebtedness incurred by an eligible veteran to buy, build, remodel, or enlarge a housing unit, the payment of which loan, lien, or indebtedness is secured by a mortgage lien, or other equivalent security of record, on the housing unit in the usual legal form employed in the community in which the property is situated. The term also includes refinancing of such an indebtedness to avoid a default, to consolidate liens, to renew or extend the time for payment of the indebtedness, and in cases where the housing unit is being bought, built, remodeled, or enlarged by increasing the amount of such an indebtedness.

(e) The term *owned* means the eligible veteran has or will acquire an interest in the housing unit which is:

(1) A fee simple estate, or

(2) A leasehold estate, the unexpired term of which, including renewals at the option of the lessee, is not less than 50 years, or

(3) An interest in a residential unit in a cooperative or a condominium type development which in the judgment of the Under Secretary for Benefits or the Director, Loan Guaranty Service, provides a right of occupancy for a period of not less than 50 years: *Provided*, The title to such estate or interest is or shall be such as is acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community.

[37 FR 282, Jan. 8, 1972, as amended at 42 FR 43835, Aug. 31, 1977; 61 FR 29027, June 7, 1996]

### § 8a.2 Maximum amount of insurance.

(a) Each eligible veteran is authorized up to a maximum of \$90,000 in VMLI to insure his or her life during periods he or she is obligated under a mortgage loan, except that, as to an individual housing unit, whenever there is a reduction in the actual amount of insurance in force as provided for in § 8a.4(a) the amount of VMLI thereafter available to insure the life of the same veteran on the same housing unit is permanently reduced by a like amount.

(b) The maximum amount of insurance in force on any one life at one time shall not exceed the lesser of the following amounts:

(1) \$90,000.

(2) For insurance issued prior to December 24, 1987, the reduced maximum amount of insurance then available to an eligible veteran.

(3) The amount of the unpaid principal of the mortgage loan outstanding on the date of approval of the grant on a housing unit then owned and occupied by the eligible veteran, or on a housing unit being or to be constructed or remodeled for the eligible veteran, and such initial amount of insurance may be adjusted upward, subject to the maximum insurance available to the eligible veteran, or downward, depending upon the amount of the mortgage loans outstanding on the date of full disbursement of the grant, or on the date of final settlement of the purchase, construction, or remodeling agreement, whichever date is the later date.

(4) Where an eligible veteran ceases to own the housing unit which was subject to a mortgage loan that resulted in his or her life being insured under VMLI, and becomes obligated under a mortgage loan on another housing unit occupied or to be occupied by the eligible veteran, the amount of the unpaid principal outstanding on the mortgage loan on the newly acquired housing unit on the date insurance hereunder is placed in effect.

(5) Where an eligible veteran incurs or refinances a mortgage loan, subject to the provisions of paragraph (a) of this section, the amount of the incurred or refinanced mortgage loan.

(6) If title to an undivided interest in a housing unit is or will be vested in a person other than the spouse of an eligible veteran, the amount of VMLI or his or her life shall be computed to be such part of the total of the unpaid principal of the loan outstanding on the housing unit as is proportionate to the undivided interest of the veteran in the entire property.

(7) All claims, arising out of the deaths of insured veterans occurring prior to October 1, 1976, shall be subject to the \$30,000 lifetime maximum amount of insurance then in effect. All claims, arising out of the deaths of insured veterans occurring on or after October 1, 1976, but prior to December 1, 1992, shall be subject to the \$40,000 lifetime maximum amount of insurance then in effect.

(8) All claims, arising out of the deaths of insured veterans occurring prior to (date of final publication), shall be subject to the provisions of paragraph (a) of this section then in effect which limited the amount of VMLI coverage to a lifetime maximum per eligible veteran.

(c) Any eligible veteran who prior to October 1, 1976, was covered by \$30,000 VMLI and who on that date became eligible to have his or her coverage increased may elect to retain the lesser amount of coverage he or she had in effect prior to that date.

(Authority: 38 U.S.C. 501, 2106)

[52 FR 48682, Dec. 24, 1987, as amended at 59 FR 59921, Nov. 21, 1994; 61 FR 29027, June 7, 1996]

#### § 8a.3 Effective date.

(a) Where the grant was approved prior to August 11, 1971, VMLI shall be effective August 11, 1971, if on that date, the eligible veteran was obligated under a mortgage loan, and any such eligible veteran is automatically insured, unless he or she elects in writing not to be insured, or fails to respond within 60 days after the date a final request is made or mailed to the eligible veteran for information on which his or her premium can be based.

(b) Where the grant is approved on or after August 11, 1971, VMLI shall be effective on the date of approval of the grant, if on that date the eligible veteran is obligated under a mortgage loan, and any such eligible veteran is automatically insured, unless he or she elects in writing not to be insured, or fails to respond within 60 days after the date a final request is made or mailed to the eligible veteran for information on which his or her premium can be based.

(c) In any case in which a veteran would have been eligible for VMLI on August 11, 1971, or on the date of approval of his or her grant, whichever date is the later date, but such insurance did not become effective because he or she was not obligated under a mortgage loan on that date, or because he or she elected in writing not to be insured, or failed to timely respond to a request for information on which his or her premium could be based, the insurance will be effective on a date agreed upon by the veteran and the Secretary, but only if the veteran files an application in writing with the Department of Veterans Affairs for such insurance, submits evidence that he or she meets the health requirements of the Secretary, together with information on which his or her premiums can be based, and is or becomes obligated under a mortgage loan upon the date agreed upon as the effective date of his or her insurance.

(d) In any case in which an eligible veteran disposes of the housing unit purchased, constructed or remodeled in part with a grant, or a subsequently acquired housing unit, and becomes obligated under a mortgage loan on another housing unit occupied or to be occupied by the eligible veteran, the

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insurance will be effective upon a date requested by the veteran and agreed to by the Secretary, but only if the eligible veteran files an application for such insurance, submits evidence that he or she meets the health requirements of the Secretary, furnishes information on which his or her premium can be based, and is or becomes obligated under a mortgage loan on the date the insurance is to become effective.

(e) In any case where an eligible veteran insured under VMLI, refinances the mortgage loan which is the basis for such insurance on his or her life, any increase in the amount of insurance or any delay in the rate of reduction of insurance will be effective only if the eligible veteran files an application for insurance, submits evidence that he or she meets the health requirements of the Secretary, and furnishes information on which his or her premium can be based.

[42 FR 43835, Aug. 31, 1977, as amended at 61 FR 29027, June 7, 1996]

### § 8a.4 Coverage.

(a) The amount of VMLI in force on his or her life at any one time shall be reduced simultaneously (1) with the reduction in the principal of the mortgage loan, whether or not the mortgage loan is amortized, and (2) in addition, if the mortgage loan is amortized, according to the schedule for the reduction of the principal of the mortgage loan whether or not the schedule payments are timely made.

(b) If the amount of the mortgage loan exceeds \$90,000, or the reduced maximum amount of insurance available to an eligible veteran, whichever amount is the lesser, the amount of insurance in force on the life of the veteran shall remain at a constant level until the principal amount of the mortgage loan which is basis for establishing the amount of insurance is reduced to \$90,000, or to the amount of the reduced maximum amount of insurance available to the veteran, at which time the amount of insurance in force on his or her life shall be reduced in accordance with the schedule for the reduction of the principal of the mortgage loan, and whether or not the scheduled payments are timely made.

(c) Subject to the \$90,000 maximum amount of insurance, and to the reduced maximum amount of insurance available to the eligible veteran, he or she is entitled to be insured under VMLI or to apply for such insurance as often as he or she becomes obligated under a mortgage loan or a refinanced mortgage loan on a housing unit or a successor housing unit owned and occupied by the eligible veteran. Where a veteran who is not automatically insured under VMLI applies for such insurance, he or she shall be required to meet the health standards and other conditions established by the Secretary for such insureds.

(Authority: 38 U.S.C. 501, 2106)

[37 FR 282, Jan. 8, 1972, as amended at 42 FR 43836, Aug. 31, 1977; 52 FR 48682, Dec. 24, 1987; 59 FR 59921, Nov. 21, 1994; 61 FR 29027, June 7, 1996]

## PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

### Sec.

- 9.1 Definitions.
- 9.2 Effective date; applications.
- 9.3 Waiver or reduction of coverage.
- 9.4 Beneficiaries and options.
- 9.5 Payment of proceeds.
- 9.6 Assignments.
- 9.7 Administrative decisions.
- 9.8 Termination of coverage.
- 9.9 Conversion privilege.
- 9.10 Health standards.
- 9.11 Criteria for reinsurers and converters.
- 9.12 Reinsurance formula.
- 9.13 Actions on the policy.

AUTHORITY: 38 U.S.C. 501, 1965–1979, unless otherwise noted.

SOURCE: 40 FR 4135, Jan. 28, 1975, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 9 appear at 62 FR 35970, July 3, 1997; 62 FR 47533, Sept. 9, 1997.

### § 9.1 Definitions.

The following definitions are in addition to those definitions in 38 U.S.C. 101 and 1965:

(a) The term *policy* means Group Policy No. G-32000, which was effective September 29, 1965, purchased from the insurer pursuant to 38 U.S.C. 1966, executed and attested on December 30, 1965, and amended thereafter.